

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

United States of America,

Plaintiff,

v.

**Case No. 3:18-cr-172 [2]
Judge Thomas M. Rose
Magistrate Judge Michael M. Merz**

A. Philip Thomas Christian Daughtry,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE MERZ (DOC. 214) AND DENYING
MOTION TO VACATE. (DOC. 200).**

Pending before the Court is Defendant's Motion to Vacate under § 2255 (Doc. 200) and Report and Recommendations (Doc. 214). Magistrate Judge Michael R. Merz's Report and Recommendations (Doc. 214), recommends denying Defendant's Motion to Vacate under § 2255. (Doc. 200).

As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the Court has made a *de novo* review of the record in this case. Upon said review, the Court **ADOPTS** the Report and Recommendations. (Doc. 214). Wherefore, the Court **DENIES** the Motion, (Doc. 200), **WITH PREJUDICE**. Because reasonable jurists would not disagree with this conclusion, Defendant is denied a certificate of appealability and the Court certifies to the Sixth Circuit that any appeal would be objectively frivolous and therefore Defendant should not be permitted to proceed *in forma pauperis*. The instant case remains closed.

DONE and **ORDERED** this Thursday, February 16, 2023.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE